

2. This Court has jurisdiction over the subject matter of this action pursuant to 38 USC §4323 and supplemental jurisdiction over the state law claims pursuant to 28 USC §1367.
3. Venue is proper in this district under 38 USC §4323(c)(2) and 28 USC §1391(b). Defendant, Barrett Firearms Manufacturing, Inc. (“BFMI”) is a Tennessee Corporation with its place of business at 5926 Miller Lane, Christiana, TN 37037. Plaintiff Messina was employed by BFMI at this business location.
4. Mr. Messina resides at 1030 Nighthawk Lane, Mt. Juliet, TN 37122, which is within the jurisdiction of this court.

PARTIES

5. BFMI is a Tennessee Corporation with its principal place of business in Christiana, Tennessee and is an employer within the meaning of 4303(4)(A)
6. Mr. Messina joined the Tennessee Army National Guard in October 2005 and has served since that time.

CLAIMS FOR RELIEF

7. On or around June 4, 2012, Mr. Messina began working for Barrett Firearms Manufacturing, Inc. as a U.S. Military Sales Manager.
8. In October 2012, Mr. Messina was promoted to Director of International and Government Sales.
9. A performance review in March 2013 indicated that Mr. Messina's overall work performance exceeded expectations.
10. On or around June 2, 2014, Mr. Messina gave BFMI notification of his upcoming National Guard Annual Training dates.
11. Mr. Messina took part in training from July 28, 2014 through August 1, 2014 and from September 8, 2014 through September 12, 2014.
12. Upon his return from training, Mr. Messina was informed that his National Guard training was bad timing.
13. On September 19, 2014, Mr. Messina was demoted from International and Government Sales.
14. At or around the time of his demotion, Mr. Messina was informed by his supervisor that there had been discussions about firing him for taking time off work for military training.

15. Mr. Messina will show that Mr. Messina's military service was a motivating factor in BFMI's decision to demote him.
16. On February 11, 2015, Mr. Messina informed BFMI of upcoming National Guard annual training in May 2015.
17. Mr. Messina participated in National Guard training from May 4-15, 2015.
18. In July 2015, Mr. Messina received a second performance review, with an overall rating of "excellent" performance.
19. Included in his performance review was a notation of "Need more advanced notification of reserve duties."
20. On August 24, 2015, Mr. Messina informed his employer that he would need to complete a make-up drill on September 3 and 4, 2015.
21. Mr. Messina completed a make-up drill on September 3 and 4, 2015.
22. On October 18, 2015, Mr. Messina informed his employer of his upcoming National Guard annual training from March 28, 2016 through April 8, 2016 and provided BFMI of the military training schedule for the 2016 calendar year.
23. On December 22, 2015, Mr. Messina received another performance review. Despite having given nearly six months of notice of his upcoming military training, this review again indicated that Mr. Messina should "Advise of military leave time well in advance."
24. On February 25, 2016, Mr. Messina's employment with BFMI was terminated approximately one month before his next military duty. The reason noted for his termination was that Mr. Messina "does not meet the needs of the company."
25. Mr. Messina's military service was a motivating factor in BFMI's decision to terminate his employment.

26. Mr. Messina's termination would not have occurred absent Mr. Messina's obligation for service.
27. Mr. Messina gave advanced notice of his dates of military service to BFMI on each occasion when he was required to miss work for his military service.
28. The cumulative length of Mr. Messina's absences from his employment by reason of service does not exceed five years.
29. Since his termination from BFMI, Mr. Messina has had difficulty finding new work.
30. Following his termination from employment, Mr. Messina attempted to encourage BFMI's compliance with USERRA laws through the Employer Support of the Guard and Reserve and the Department of Labor. However, BFMI willfully refused to reinstate Mr. Messina or even discuss this matter.
31. BFMI willfully instructed their human relations department to not to return any further phone calls relating to Mr. Messina.
32. When Mr. Messina filed for unemployment, BFMI argued that Mr. Messina was fired "for cause." However, Mr. Messina's termination notice did not list any such cause and the State of Tennessee rejected the claim that any such cause existed.

USERRA VIOLATIONS

33. As a result of Mr. Messina's demotion and termination from employment, Mr. Messina has suffered damages to include loss of wages and benefits suffered by reason of BFMI's willful failure to comply with USERRA laws. Thus, BFMI should be responsible for said damages.

34. Mr. Messina also requests that BFM be required to pay liquidated damages in an amount equal to his lost wages and benefits for BFMI's willful failure to comply with USERRA laws including both front pay and back pay.

35. Mr. Messina also requests that the Court enter an injunction requiring BFMI to reinstate him at his highest paid position with BFMI or an equivalent position.

CLAIMS FOR RELIEF: TENN. CODE ANN. §8-33-110

36. In Tennessee, pursuant to Tennessee Code Annotated §8-33-110, all private sector employees who are members of the Tennessee army and air national guard on active state duty or the Tennessee state guard and civil air patrol are "entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation or impairment of efficiency rating for all periods of service during which under competent orders they are engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency."

37. BFMI violated this Tennessee statute when it impaired Mr. Messina's efficiency rating by giving negative feedback in his performance reviews relating to his mandatory military service. Ultimately, Mr. Messina was demoted, then dismissed from his employment after the impairment of his efficiency ratings.

38. Plaintiff requests that he be awarded damages to include lost wages and benefits plus pre-judgment interest for BFMI's violation of Tennessee law including both front pay and back pay.

39. This Court has supplemental jurisdiction over this state law claim because it is so related to Mr. Messina's USERRA claim, over which this court has original jurisdiction, that the

two claims form part of the same case or controversy under Article III of the United States Constitution.

WHEREFORE, PLAINTIFF PRAYS THAT:

1. BFMI be enjoined from refusing to comply with USERRA and reinstate Mr. Messina at his highest paid position with BFMI or an equivalent position.
2. Mr. Messina be awarded a judgment in an amount equal to his lost wages and benefits plus liquidated damages to include both front pay and back pay.
3. That Mr. Messina be awarded pre-judgment interest on the amount of lost wages, benefits, and liquidated damages.
4. That Mr. Messina be awarded damages up to \$1,000,000.00 or the maximum amount allowed by law.
5. That Mr. Messina be awarded his reasonable attorney fees, expert witness fees, court costs, and other litigation expenses associated with this action.
6. For all further and general relief to which Plaintiff is entitled.

Respectfully submitted,

BULLOCH, FLY, HORNSBY & EVANS

/s/ Brad W. Hornsby

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